

Remarks

The applicant has amended claims 5, 14, and 29. Claims 1-33 are currently pending. In light of the foregoing amendments and the following remarks, the applicant respectfully request allowance of the pending claims.

A. Preliminary Matters

1. Status of Claim 24

The applicant notes form PTO-326 indicates that claims 1-33 are rejected. However, there is no rejection of claim 24 in the Detailed Action. The only reference to this claim is its status as an independent claim and the removal of the previously pending rejection under 35 U.S.C. § 101, for which the applicant thanks the examiner. The applicant respectfully requests clarification of the status of claim 24 and will presume that it is allowed unless otherwise informed in a written action from the Patent Office.

2. Clarifying Amendments

The applicant has amended several of the claims to clarify various issues. For example, several of the claims were amended to clarify that not all of the expressions in a set of code are required to include a structure in which one property is a function of another property. In this example, the term "each" was replaced with the phrase "at least one of the."

B. Rejection of Claims 1-4, 19, 23, and 25

Claims 1-4, 19, 23, and 25 stand rejected as being obvious over Harris et al. in view of Schmuller. The applicant respectfully traverses this rejection.

1. No Teaching or Motivation to Combine Harris et al. and Schmuller

Harris et al. is directed to programming in a spreadsheet, which is an independent application program for performing a specific task--calculating numerical values by using formulas to establish relationships between cells. The teachings are limited to an application program for numerical calculations and fail to teach or suggest a browser that can execute expressions that are a function of a scalar value. This application is executed independently of any type of browser or any other program. Harris et al. also fails to disclose expressions that are a function of scalar properties and that are executed by a browser.

The copy of Schmuller provided in the office action merely discloses HTML code that is written using static values and does not disclose expressions that are functions of scalar values. One must use traditional procedural programming techniques. Furthermore, such HTML code is not an independent application program. It is executed by or through a browser.

There is no teaching or suggestion to combine Harris et al. and Schmuller to arrive at the claimed invention. In fact, one would not think to combine the two references for several reasons. For example, Schmuller discloses HTML code that uses static, procedural programming. Indeed, before the claimed invention HTML code was static and did not include the use of expressions that are functions of scalar values. A spreadsheet as described in Harris et al. is programmed by using formulas to relate one cell to another and is a fundamentally different style of programming. A person programming in HTML (which is traditionally used indicate how Web browsers should display text and graphics) for typically would not look to a spreadsheet (which is an application program for processing mathematical operations) for programming techniques. Independent spreadsheet applications and text files containing HTML codes as set forth in Schmuller employ two different types of programming techniques and serve two different purposes.

Another example of the differences between Harris et al. and Schmuller is that Harris et al. discloses an independent software application that operates independently and has its own programming rules. Schmuller discloses HTML code that uses procedural programming techniques and that must be parsed and have its syntax examined by a separate program (e.g., a browser). One programming with HTML code typically will not look to an independent spreadsheet application for suggestions on how to modify the HTML programming.

Accordingly, with respect to claims 1-4, the applicant submits that there is no teaching or motivation to combine the cited references to achieve code executable by a browser having one property formed with an expression that is a function of another property. with respect to claims 19, 23, and 25, the cited references also fail to provide any teaching or motivation to combine them to achieve HTML code having an expression in which one property is a function of another property.

2. No Motivation to Combine Cited References Provided in Office Action

The applicant has explained why there is no teaching or motivation to combine Harris et al. and Schmuller. In contrast, the applicant respectfully submits that the office action fails to provide a motivation to combine Harris et al. and Schmuller and thus fails to set forth a prima facie case of obviousness.

The office action states on page 9, "There is no reason why a skilled artisan would not look towards different types of applications, languages, and paradigms in order to improve a product." The applicant respectfully submits that this statement merely says that the references can be combined and does not provide any motivation to combine the cited references to arrive at the cited references. It indicates the application of hindsight. Accordingly, the office action does not set forth a prima facie case of obviousness.

As stated in the M.P.E.P., the mere fact one can combine references does not result in obviousness unless the cited art also provides a motivation for the combination. M.P.E.P. § 2143.01. The Board of Patent Appeals and Interferences emphasized this rule when it stated:

When the incentive to combine the teachings of the references is not readily apparent, it is the duty of the examiner to explain why combination of the reference teachings is proper. . . . Absent such reasons or incentives, the teachings of the references are not combinable.

Ex parte Skinner, 2 U.S.P.Q.2d 1788,1790 (B.P.A.I. 1987). The United States Court of Appeals for the Federal Circuit has also emphasized the importance of this rule:

The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. . . . Here the Examiner relied upon hindsight to arrive at the determination of obviousness. It is impermissible to use the claimed invention as an instruction manual or template to piece together the teachings of the prior art so that the claimed invention is rendered obvious.

In re Fritch, 23 U.S.P.Q.2d 1780, 1783-84 (Fed. Cir. 1992).

In light of the foregoing remarks, the applicant respectfully submits that claims 1-4, 19, 23, and 25 are patentably distinct from the cited references and requests reconsideration and withdrawal of the pending rejection.

C. Rejection of Claims 5-18, 20-22, and 26-33

The office action rejects claims 5-18, 20-22, and 26-33 as being obvious over Harris et al. in view of Garman, and further in view of Schmuller. The applicant respectfully traverses this rejection.

Pages 8-9 of the Office Action states that the arguments (i.e., "programming formatting instructions") on which the applicant relied to distinguish these claims from the cited reference are not in the claims. The applicant has amended these claims to clarify that these claims do include this element.

1. Harris et al. and Garman

Given this clarifying amendment, the applicant notes both Harris et al. and Garman are directed to programming in spreadsheets, which are application programs for calculating numerical values. Furthermore, spreadsheets are programmed by using formulas to establish relationships between cells. The teachings are limited to numerical calculations and fail to teach or suggest expressions written in a markup language that defines a dynamic property. In fact, these references fail to teach programming in any type of markup language or any other language that is coded in a text file. They also fail to teach or suggest programming formatting instructions, which programmers traditionally code using static values.

2. Schmuller

Schmuller merely discloses HTML code that is written using static values and does not disclose expressions that are functions of scalar values. One must use traditional procedural programming techniques. Furthermore, such HTML code is not an independent application program as are the programs disclosed in Harris et al. and Garman. It is executed by or through a browser.

3. No Motivation to Combine Schmuller with Harris et al. or Garman

There is no teaching or suggestion to combine Schmuller with Harris et al. and Garman to arrive at the claimed combinations. In fact, one would not think to combine Schmuller with Harris et al. or Garman for several reasons. For example, Schmuller discloses HTML code that uses static, procedural programming. Indeed, before the claimed invention HTML code was static and did not include the use of expressions that are functions of scalar values. Furthermore, Schmuller discloses code for formatting a user interface and does not disclose a program for

performing mathematical operations. A spreadsheet as described in Harris et al. and Garman is programmed by using formulas to relate one cell to another and is a fundamentally different style of programming. A person programming in HTML typically would not look to a spreadsheet for programming techniques. Independent spreadsheet applications and text files containing HTML codes as set forth in Schmuller employ two different types of programming techniques and serve two different purposes.

Another example of the differences between Harris et al., Garman, and Schmuller. Harris et al. and Garman disclose an independent software application that operated independently and has its own programming rules. Schmuller discloses HTML code that uses procedural programming techniques and that must be parsed and have its syntax examined by a separate program (e.g., a browser). One programming with HTML code typically will not look to an independent spreadsheet application for suggestions on how to modify the HTML programming.

4. Claim Inventions Distinguished from Cited References

In sharp contrast to the cited reference, claims 5-18 set forth a data structure in which an expression defining a dynamic property is written in a markup language, which is a set of code written in a text file that sets forth formatting instructions for a computer, claims 20-22 and 26-28 an apparatus for processing HTML code in which an expression defines the value of a dynamic property as being a function of at least one scalar property, and claims 29-33 a computer data signal encoding program instructions that processes an expression having a dynamic property that is a function of at least one scalar property.

This invention has significant advantages. For example, it permits describing relationships between objects, properties, and variables in terms of functions rather than an explicit sequence of steps. This advantage is significant because it simplifies programming in markup languages so that developers can program without knowledge of complex procedural programming techniques.

Therefore, the applicant respectfully submits that the cited references fail to teach or suggest the combination of elements set forth in claims 5-18, 20-22, and 26-33. The applicant requests reconsideration and withdrawal of the pending rejection.

Conclusion

In light of the foregoing amendments and remarks, the applicant respectfully submits that the claims are in condition for allowance and requests advancement of the application toward issuance. The applicant also notes that there may be other arguments in support of patentability of the claims and reserves the right to raise any such argument in the future. Please call the undersigned attorney if there are any questions.

Respectfully submitted,

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